

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

No. 721

**Introduced by Assembly Member Nava**

**(Coauthors: Assembly Members Adams, Chesbro, Emmerson,  
Galgiani, Knight, Niello, and Silva)**

~~(Coauthor: Senator Walters)~~ *Coauthors: Senators Strickland and Walters)*

February 26, 2009

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An act to amend Section ~~2620~~ 2660 of, and to add Section 2620.1 to, of the Business and Professions Code, relating to physical therapists.

### LEGISLATIVE COUNSEL'S DIGEST

AB 721, as amended, Nava. Physical therapists: ~~scope of practice:~~ *direct access to services.*

Existing law, the Physical Therapy Practice Act, creates the Physical Therapy Board of California and makes it responsible for the licensure and regulation of physical therapists. The act defines the term “physical therapy” for its purposes and makes it a crime to violate any of its provisions. *The act authorizes the board to suspend, revoke, or impose probationary conditions on a license, certificate, or approval issued under the act for unprofessional conduct, as specified.*

This bill would ~~revise the definition of “physical therapy,” would authorize a physical therapist to initiate treatment of conditions within the scope of physical therapist practice~~ *specify that patients may access physical therapy treatment directly*, and would, *in those circumstances*, require a physical therapist to refer his or her patient to another specified healing arts practitioner if the physical therapist has reason to believe the patient has a condition requiring treatment or services beyond that scope of practice, *to disclose to the patient any financial interest he or*

*she has in treating the patient, and, with the patient's written authorization, to notify the patient's physician and surgeon, if any, that the physical therapist is treating the patient. The bill would provide that failure to comply with these provisions constitutes unprofessional conduct subject to disciplinary action by the board.*

Because the bill would specify additional requirements under the Physical Therapy Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. The Legislature finds and declares that an*  
2     *individual's access to early intervention to physical therapy*  
3     *treatment may decrease the duration of a disability, reduce pain,*  
4     *and lead to a quicker recovery.*

5     *SEC. 2. Section 2620.1 is added to the Business and Professions*  
6     *Code, to read:*

7     *2620.1. (a) In addition to receiving wellness and evaluation*  
8     *services from a physical therapist, a person may initiate physical*  
9     *therapy treatment directly from a licensed physical therapist*  
10    *provided that the treatment is within the scope of practice of*  
11    *physical therapists as defined in Section 2620, and that all the*  
12    *following conditions are met:*

13    *(1) If, at any time, the physical therapist has reason to believe*  
14    *that the patient has signs or symptoms of a condition that requires*  
15    *treatment beyond the scope of practice of a physical therapist, the*  
16    *physical therapist shall refer the patient to a person holding a*  
17    *physician and surgeon's certificate issued by the Medical Board*  
18    *of California or by the Osteopathic Medical Board of California*  
19    *or to a person licensed to practice dentistry, podiatric medicine,*  
20    *or chiropractic.*

21    *(2) The physical therapist shall disclose to the patient any*  
22    *financial interest he or she has in treating the patient.*

1     (3) *With the patient's written authorization, the physical*  
2 *therapist shall notify the patient's physician and surgeon, if any,*  
3 *that the physical therapist is treating the patient.*

4     (b) *The conditions in paragraphs (1), (2), and (3) of subdivision*  
5 *(a) do not apply to a physical therapist when providing evaluation*  
6 *or wellness physical therapy services to a patient as described in*  
7 *subdivision (a) of Section 2620.*

8     (c) *Nothing in this section shall be construed to expand or*  
9 *modify the scope of practice for physical therapists set forth in*  
10 *Section 2620, including the prohibition on a physical therapist*  
11 *diagnosing a disease.*

12     (d) *Nothing in this section shall be construed to require a health*  
13 *care service plan or insurer to provide coverage for direct access*  
14 *to treatment by a physical therapist.*

15     *SEC. 3. Section 2660 of the Business and Professions Code is*  
16 *amended to read:*

17     2660. The board may, after the conduct of appropriate  
18 proceedings under the Administrative Procedure Act, suspend for  
19 not more than 12 months, or revoke, or impose probationary  
20 conditions upon any license, certificate, or approval issued under  
21 this chapter for unprofessional conduct that includes, but is not  
22 limited to, one or any combination of the following causes:

23     (a) Advertising in violation of Section 17500.

24     (b) Fraud in the procurement of any license under this chapter.

25     (c) Procuring or aiding or offering to procure or aid in criminal  
26 abortion.

27     (d) Conviction of a crime that substantially relates to the  
28 qualifications, functions, or duties of a physical therapist or  
29 physical therapist assistant. The record of conviction or a certified  
30 copy thereof shall be conclusive evidence of that conviction.

31     (e) Habitual intemperance.

32     (f) Addiction to the excessive use of any habit-forming drug.

33     (g) Gross negligence in his or her practice as a physical therapist  
34 or physical therapist assistant.

35     (h) Conviction of a violation of any of the provisions of this  
36 chapter or of the Medical Practice Act, or violating, or attempting  
37 to violate, directly or indirectly, or assisting in or abetting the  
38 violating of, or conspiring to violate any provision or term of this  
39 chapter or of the Medical Practice Act.

(i) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.

(j) The aiding or abetting of any person to engage in the unlawful practice of physical therapy.

(k) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.

(l) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

(m) The commission of verbal abuse or sexual harassment.

(n) *Failure to comply with the provisions of Section 2620.1.*

~~SECTION 1. Section 2620 of the Business and Professions Code is amended to read:~~

~~2620. (a) Physical therapy means examining, evaluating, and testing a person with mechanical, physiological, and developmental movement-related impairments, functional limitations, and disabilities or other health and movement-related conditions in order to develop a plan of therapeutic intervention and to initiate treatment. Physical therapy is the art and science of physical or~~

1 ~~corrective rehabilitation or of physical or corrective treatment of~~  
2 ~~a bodily or mental condition of a person by the use of the physical,~~  
3 ~~chemical, and other properties of heat, light, water, electricity,~~  
4 ~~sound, massage, and active, passive, and resistive exercise, and~~  
5 ~~shall include physical therapy evaluation, treatment planning,~~  
6 ~~instruction, and consultative services. The practice of physical~~  
7 ~~therapy includes the promotion and maintenance of physical fitness~~  
8 ~~to enhance the bodily movement-related health and wellness of~~  
9 ~~individuals through the use of physical therapy interventions. The~~  
10 ~~use of roentgen rays and radioactive materials, for diagnostic and~~  
11 ~~therapeutic purposes, and the use of electricity for surgical~~  
12 ~~purposes, including cauterization, are not authorized under the~~  
13 ~~term “physical therapy” as used in this chapter, and a license issued~~  
14 ~~pursuant to this chapter does not authorize the diagnosis of disease.~~

15 ~~(b) A physical therapist may initiate treatment of conditions~~  
16 ~~within the scope of practice of a physical therapist. If at any time,~~  
17 ~~the physical therapist has reason to believe that the patient he or~~  
18 ~~she is treating has signs or symptoms of a condition that requires~~  
19 ~~treatment or services beyond the scope of practice of a physical~~  
20 ~~therapist, the physical therapist shall refer the patient to a person~~  
21 ~~holding a physician and surgeon’s certificate issued by the Medical~~  
22 ~~Board of California or by the Osteopathic Medical Board of~~  
23 ~~California or by a person licensed to practice dentistry, podiatric~~  
24 ~~medicine, or chiropractic.~~

25 ~~(c) Nothing in this section shall be construed to restrict or~~  
26 ~~prohibit other healing arts practitioners licensed or registered under~~  
27 ~~this division from practice within the scope of their license or~~  
28 ~~registration.~~

29 ~~SEC. 2.~~

30 *SEC. 4.* No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution because  
32 the only costs that may be incurred by a local agency or school  
33 district will be incurred because this act creates a new crime or  
34 infraction, eliminates a crime or infraction, or changes the penalty  
35 for a crime or infraction, within the meaning of Section 17556 of  
36 the Government Code, or changes the definition of a crime within  
37 the meaning of Section 6 of Article XIII B of the California  
38 Constitution.

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